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In re Application of :
Joseph Mizrahi, et. al. :
Application No. 09/412,085 : **ON PETITION**
Filed: October 4, 1999 :
Attorney Docket No. 13626-014001 CGL04/0235US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2004, to revive the above-identified application.

In response to the final Office action mailed January 7, 2002, petitioner hereby submits \$1,370 for the petition to revive fee, a Revocation and New Power of Attorney, the statement of unintentional delay, and \$430 for a two month extension of time. The Office also acknowledges receipt of a continuation application filed June 4, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above application, this application is again abandoned in favor of continuing application No. 10/162,935.

The Revocation and New Power of Attorney filed November 12, 2004 and supplemented by facsimile transmission on July 7, 2005, has been accepted and made of record.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$430 extension of time submitted with the petition on November 12, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The above application is being referred to Files Repository.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy